

preparing a comprehensive, accurate, and unbiased report of the incident so that the claim may be properly evaluated. This report should be completed within 60 days of notification of the filing of the tort claim. The report should be complete in every significant detail and include as appropriate:

(1) The date, time and exact place of the accident or incident;

(2) A concise and complete statement of the circumstances of the accident or incident;

(3) The names and addresses of Tribal and/or Federal employees involved as participants or witnesses;

(4) The names and addresses of all other eyewitnesses;

(5) An accurate description of all government and other privately-owned property involved and the nature and amount of damage, if any;

(6) A statement as to whether any person involved was cited for violating a Federal, State or tribal law, ordinance, or regulation;

(7) The Tribe's/Consortium's determination as to whether any of its employees (including Federal employees assigned to the Tribe/Consortium) involved in the incident giving rise to the tort claim were acting within the scope of their employment in carrying out the contract at the time the incident occurred;

(8) Copies of all relevant documentation, including available police reports, statements of witnesses, newspaper accounts, weather reports, plats and photographs of the site or damaged property, such as may be necessary or useful for purposes of claim determination by the Federal agency; and

(9) Insurance coverage information, copies of medical bills, and relevant employment records.

(d) The Tribe/Consortium shall cooperate with and provide assistance to the U.S. Department of Justice attorneys assigned to defend the tort claim, including, but not limited to, case preparation, discovery, and trial.

(e) If requested by the Secretary, the Tribe/Consortium shall make an assignment and subrogation of all the Tribe's/Consortium's rights and claims (except those against the Federal government) arising out of a tort claim against the Tribe/Consortium.

(f) If requested by the Secretary, the Tribe/Consortium shall authorize representatives of the Secretary to settle or defend any claim and to represent the Tribe/Consortium in or take charge of any action.

(g) If the Federal government undertakes the settlement or defense of any claim or action, the Tribe/Consortium shall provide all reasonable additional assistance in reaching a settlement or asserting a defense.

§ 1000.278 Does this coverage extend to subcontractors of self-governance AFAs?

No, subcontractors or subgrantees providing services to a Pub. L. 93-638 Tribe/Consortium are generally not covered.

§ 1000.279 Is FTCA the exclusive remedy for a tort claim, including a claim concerning personal injury or death, resulting from the performance of a self-governance AFA?

Yes, except as explained in § 1000.272(b). No claim may be filed against a self-governance Tribe/Consortium or employee based upon performance of functions under a self-governance AFA. All claims shall be filed against the United States and are subject to the limitations and restrictions of FTCA.

§ 1000.280 What employees are covered by FTCA for medical-related claims?

The following employees are covered by FTCA for medical-related claims:

(a) Permanent employees;

(b) Temporary employees;

(c) Persons providing services without compensation in carrying out a contract;

(d) Persons required because of their employment by a self-governance Tribe/Consortium to serve non-IHS beneficiaries (even if the services are provided in facilities not owned by the Tribe/Consortium); and,

(e) Federal employees assigned to the AFA.